

# HOUSE BILL No. 1268

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 13-17.

**Synopsis:** Open burning. Allows a person who successfully challenges an open burning citation to collect attorney's fees from the department of environmental management or the political subdivision that issued the citation. Allows a person to open burn wood remnants from construction of a structure if the burn occurs in a container in an unincorporated area.

**Effective:** July 1, 2005.

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## Pond, Cherry

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January 11, 2005, read first time and referred to Committee on Environmental Affairs.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1268

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 13-17-3-3.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2005]: **Sec. 3.5. In a proceeding or action under IC 13-14-2-6 or**  
4 **IC 13-30-3 initiated after June 30, 2005, to enforce IC 13-17-9, if a**  
5 **person:**

6           **(1) is cited for a violation of IC 13-17-9;**

7           **(2) challenges the citation; and**

8           **(3) is found in the proceeding or action not to be in violation**  
9 **of IC 13-17-9;**

10 **the department is liable for the person's reasonable attorney's fees**  
11 **that result from the proceeding or action.**

12       SECTION 2. IC 13-17-9-1 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Subject to section  
14 3 of this chapter, a person may open burn the following for  
15 maintenance purposes:

16           (1) Vegetation from:

17               (A) a farm;

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- 1 (B) an orchard;
- 2 (C) a nursery;
- 3 (D) a tree farm;
- 4 (E) a cemetery; or
- 5 (F) a drainage ditch.
- 6 (2) Vegetation from agricultural land if the open burn occurs in
- 7 an unincorporated area.
- 8 (3) Wood products derived from pruning or clearing a roadside by
- 9 a county highway department.
- 10 (4) Wood products derived from the initial clearing of a public
- 11 utility right-of-way if the open burn occurs in an unincorporated
- 12 area.
- 13 (5) Undesirable:
- 14 (A) wood structures on real property; or
- 15 (B) wood remnants of the demolition of a predominantly
- 16 wooden structure originally located on real property;
- 17 located in an unincorporated area.
- 18 **(b) Subject to section 3 of this chapter, a person may open burn**
- 19 **wood remnants from construction of a structure if the open burn**
- 20 **occurs in:**
- 21 **(1) a container; and**
- 22 **(2) an unincorporated area.**
- 23 ~~(b)~~ (c) A person who is allowed to open burn under subsection (a)
- 24 **or (b)** is not required to obtain:
- 25 (1) a permit; or
- 26 (2) any other authorization;
- 27 from the department, a unit of local government, or a volunteer fire
- 28 department before conducting the open burning.
- 29 SECTION 3. IC 13-17-12-1.5 IS ADDED TO THE INDIANA
- 30 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 31 [EFFECTIVE JULY 1, 2005]: **Sec. 1.5. In a proceeding or an action**
- 32 **initiated after June 30, 2005, to enforce an ordinance referred to in**
- 33 **section 1 of this chapter, if a person:**
- 34 **(1) is cited for a violation of an ordinance that restricts open**
- 35 **burning;**
- 36 **(2) challenges the citation; and**
- 37 **(3) is found in the proceeding or action not to be in violation**
- 38 **of the ordinance that restricts open burning;**
- 39 **the town, city, or county that adopted the ordinance is liable for the**
- 40 **person's reasonable attorney's fees that result from the proceeding**
- 41 **or action.**

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